THE PORT FOLIO
ENLARGED.

BY OLIVER OLDSCHOOL, ESQ.

"VARIOUS, THAT THE MIND
OF DESULTORY MAN, STUDIOUS OF CHANGE,
AND PLEAS'D WITH NOVELTY, MAY BE INDULGED."
COWPER.

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ORIGINAL PAPERS.

FOR THE PORT FOLIO.

THE AMERICAN LOUNGER.

BY SAMUEL SAUNTER, ESQ.

No. XLVIII.

My compatriots, commiserating my lazy and hopeless condition, have furnished me with a score or two of letters, by whose aid I hope to be very witty and sensible through the season. I give my readers an early warning, not to expect any bright speculations, from me, while so much vapour rolls along the sky, and so much mud obstructs the street. In the merry month of May, when I can wander through green lanes, or bask under the cope of radiant heaven, I will venture to promise essays, almost as flowery as the season, and cheerful, as its birds. But, while I am "*cabin'd, cribb'd*, and *confin'd*," by the potent spell of the *power of the air*, I shall be as dull as a Dutch burgomaster, or, in Shakspeare's picturesque phrase, as "melancholy as a lover's lute." For the sake of my readers, I am most happy, that, while I am thus stupid, others are sprightly; and that the minds of my ingenious correspondents are vivid and serene, like those skies of unfading azure, which bless the vales of Tuscany, and charm in the landscapes of CLAUDE.

TO SAMUEL SAUNTER, ESQ.

SIR,

My education has been directed by two maiden aunts, with whom it has been my happiness constantly to reside, since the early age, at which I lost both my parents. Polished, and fond of polished society; fashionable, and fond of rational fashions; literary, and fond of conversations on books, their company is courted by the polite, the sage, and the wise. Reared in this school of politeness and propriety, taught by my love for my relations, to love all my sex, and anticipating enjoyments, without limits, I was, this winter, introduced into the world. But, sir, how great were my disappointments! My first public exhibition of myself was at a tea-party, at Mrs.——. Here, instead of rational conversation, and a display of polished manners, by my own sex, I heard nothing but noise and confusion, loud laughs, hoarse exclamations, and frequent repetitions of the sacred name of our Maker. Do not, Mr. Saunter, suppose, for a moment, that this conduct was universal in the party. There were many whose countenances wore expressions of disapprobation, but the noisy and turbulent monopolized the ears of every one, and prevented the employment of every other faculty. It was with much pain I observed, among the most boisterous, one or two young ladies, of my own age, who, unabashed, associated in the laugh, and vociferated to the full extent of their lungs. I left the company, with disgust, as early as respect for the lady, whose guest I was, would permit.

The next party I visited, was attended with circumstances much more painful, and improper than the former. I now became better known, and was admitted into one of the knots into which the company divided themselves. Now it was that I learned the cause of the loud expressions of mirth, with which my ears had been assailed the previous evening. I heard from married ladies, whose stations as mothers, demanded, from them, a guarded conduct; from young ladies, whose age forbid the audience of such conversation, and who using it, modesty must disclaim, indecent allusions, indelicate expressions, and even at times, immoral inuendoes. A loud laugh, or a coarse exclamation followed each of these, and the young ladies generally went through the form of raising their fans to their faces, for the purpose, I suppose, of concealing their inability to blush. I deeply regretted this ill conduct, and I am proud to say, I found many of my own sex who felt as I did. Few, indeed, of the other sex approved, and those few were either married men, or rakes. The young men, generally, who hung round the chairs of these "unsexed females," were disgusted with this conduct, and I frequently heard them expressing, to each other, their disapprobation.

To chastise the manners of the times, to scourge the vices and follies of the society in which we live, are tasks which you have frequently and successfully essayed. I submit those I have mentioned to your correction.

EVELINA.

TO SAMUEL SAUNTER, ESQ.

SIR,

There are none, who have attempted to write periodical papers, or productions of a similar nature, but have devoted part of their time and attention to the fair sex. Some have satirized, and others praised them; but all seem to join, in this one particular, "of saying something or other about them." Addison has often noticed them, in his Spectator; and if we were to examine the papers of the great Dr. Johnson, we should find they have occupied no inconsiderable portion of his regard. With such examples, in your view, you, Mr. Saunter, have been liberal in your attention to this part of creation; and so much has been said, in your different papers, of female dress and fashion, that one would imagine there was no room, for another person, to add any thing new, or to have, as the phrase goes, "a finger in the pie."

This *momentous* subject, however, appears to have been discussed by improper disputants. Who are the best and most proper judges of *female* dress and fashion? The men. Absurd! How can they be supposed to know, what ought to be the proper and precise length of the waist, how much of the bosom ought to be covered, or what part of the *pole* of the neck, (that most beautiful portion of the human frame,) should be exposed to view? And yet nearly all the satirists, on modern female dress, whose productions have met with a reception in your paper, have been (if we may judge from their signatures) men! How alarming would it be, were the ladies to arrogate, to themselves, the power and liberty of judging and criticising the dress of our modern bucks? How enraged would the young men of fashion be, were females daring enough to lay down rules for the precise length of the vest, or the cut of the coat; or were to presume to say, "henceforth you shall have no pockets in your pantaloons, and no more than *ten* capes to your great coat.

It appears to me then, Mr. Saunter, that it is but fair and right, that the members of each sex should be permitted to be the exclusive and supreme judges of their own dress and fashion; and should not be made liable to the rude attacks and malevolent criticisms of the opposite sex. This is a desirable object, and, in order to assist in accomplishing it, permit me to lay before you a plan, which, I trust, you will approve of.

Let the ladies, as a body corporate, of peculiar privileges, be the sole judges, as to the propriety, or impropriety, of their own dress and fashion. Let them be permitted to enact laws, for their own government, and to exact penalties and punishments of offenders. By these means, I am satisfied, that, in a short time, those excrescences in dress, which so continually shoot up before us, would be entirely abolished. Young ladies would then only be clothed according to the "Statute of Female Limitations," and an action would lie, in the same manner, against a transgressor of the "law of modest fashion," as against a common burglar, or pick-pocket.

But, besides having supreme judicature over fashions and dress, they should be allowed to take cognizance, and enact laws, for the better preservation of etiquette and politeness. We should then have the pleasure of beholding laws, purposely made, for the elucidation of these, at present, incomprehensible, mysteries; and, in short time, every fool might understand those ceremonies, which now so much perplex us. The greatest *boor*, as well as the most polished gentleman, might know how to conduct himself with propriety—when to approach, and when to retire—when to salute with the short nod of familiarity, and when to bring his nose parallel to the earth, with the profound bow of admiration.

One thing, however, must be observed in the meetings of this little government. That no woman, of whatever fortune, judgment, or abilities, or however great her oratorical powers, shall be allowed to debate, on the same subject, for more than the space of *four hours and a half*. This, I think, would be a necessary regulation, for if a woman, of ordinary endowments, can talk, all day, as the phrase is, *about nothing at all*, how long may a lady of understanding debate, when she has the important subject of a fresh head dress, or a new invented patent parasol, to supply her with words? The proportionate time would be immense!

If the above plan should meet with your approbation, I will, at a convenient time, send you another for the men.

Yours, &c.

PETER PROJECTOR.

LETTERS,

LITERARY AND POLITICAL.

FOR THE PORT FOLIO.

LA HARPE.

TO THE EDITOR.

DEAR SIR,

La Harpe, in his "Fanaticism, in the language of the revolution," proceeds—

"All men, who have any tincture of history, and have not renounced all regard to truth, know that the fanaticism of the wars of religion, were nothing but the work of human passions, which abuse every thing, the work of ambition, which drew after it the credulity of the people, of hypocrisy, which misled their zeal, of intolerant pride, which made of its own quarrels the cause of Heaven. It has been said, a thousand times, to our philosophers, who could not deny the fact; but as we can never convince philosophers, even by faith, they entrenched themselves, by saying, that religion must be a bad thing, because it was susceptible of such abuses; an answer of profound ignorance, and profound absurdity. As it is necessary to anticipate every thing with people, who can never answer, but to what one has not said, I am obliged to give notice, that this philosophy, which I treat, thank Heaven, with all the contempt it deserves, is only that of writers, who have called themselves philosophers, because they preached Atheism, Irreligion, Impiety, the hatred of all legitimate authority, the contempt of all moral truths, the destruction of all the bonds of society, &c. These men might have wit, knowledge, and even talents, in some other things, but most certainly it is not difficult to prove, that all their doctrine, made, as they say, to enlighten the people, was the master piece of ignorance and absurdity, and that, in one word, they have been the worthy precursors of the revolutionary men, of Chaumette, of Hebert, and of Marat. As I am just, I shall mark, elsewhere, when I shall treat of modern philosophy, at the Lyceum, the sole difference between the philosophers and the revolutionaries. But I am pressed for time, and I cannot tell the whole in this place. One must be very ignorant, even in Grammar, not to know, that the word abuse, carries, in its acceptation, the idea of a good thing, of which an ill use has been made, and one must be very absurd, not to perceive, from that very principle, the consequence of which is false, is necessarily false. But from the principle, adopted by the philosophers, concerning Religion, it necessarily follows, that Liberty is a very bad thing, because it is susceptible of abuse, by licentiousness; that Honour is a very bad thing, because that duelling is an abuse of honour. I might run over, in this manner, all things, and all qualities that are valuable. But the philosophers had in reserve their last reply, which, for a long time, they thought triumphant, and which they have repeated, till they tired themselves and their hearers. 'There is nothing truly good, but philosophy; for this has never done any harm to men; philosophers never have troubled the world.' I might very well contest, with them, this; for, by their own confession, Error is hurtful: and they will not deny that the Pyrronists, the Epicurians, the Cynics, and other philosophers of antiquity, have broached many errors, and scandalous errors, and it is not proved that they have not done any harm to men. If they have not troubled the world, it has been because they have not had the power: for of what is not the pride of philosophy, united with power, capable? But I wave all these answers. It is unhappily too easy for me to do so. Providence has taken upon itself, to give a peremptory answer. An answer which it has judged necessary to give, once for all. It is this idea, applied to the revolution, in all possible relations and connexions of it, which alone can render it explicable, in the eyes of posterity. It is this idea, sufficiently extensive to make the matter of an entire work, which alone will afford a solution of this horrible mystery, of this event, which is singular and without a parallel in all ages, which no man, acquainted with history, can ever compare to any thing else. It is, by considering it, in this point of view, that we shall be no longer tempted to accuse divine providence, to which alone it belongs, not to permit evil, but for the purpose of drawing good out of it. Whoever believes in a God, who has created our immortal souls for another world, will comprehend, if he is consistent, that this God is not only the God of France, but of the whole world, and these primary truths will be sufficient to render an account of all.

If this answer has been terrible, and worthy of a God, who punishes one nation, to instruct and preserve the world, I am sorry for you, *great philosophers:* you have provoked him for fifty years—You will no longer say, that philosophy has no dangerous abuses; that it can do no harm to men; that it has never troubled the world. You dare not deny, that it was your philosophy, which brought about the revolution: you have so often boasted of it, before it had crushed yourselves, that you can no longer deny it. You cannot tread back your steps. Philosophical and revolutionary impudence cannot go so far, because there is a limit to every thing. I hear you cry out, that the accusation is unjust, that they have horribly abused your principles; that they have gone much further than you intended to go, &c. You have said it, and you must say it. But I can demonstrate, most rigorously, that you lie, and that nothing has been done, but to apply exactly your maxims. But this is not the place for such a demonstration: here I chuse to take you at your words, and I have no need of any thing but the argument ad hominem—Very well, gentlemen! The best, the most beautiful things in the world, may be abused, even philosophy, and the abuse may be pushed to an excess of atrocity and madness, of which the world before had no idea: and yet you will not conclude, that this abuse is philosophy itself, which, indeed, it is not, nor that it is your philosophy, which is too true. Why then will you have it, that the abuse of religion is religion? What say you, gentlemen? Is this conclusive? Is the parallel exact? It is not that I hope you will say yes. God forbid that I should ever expect such a victory of human reason over the pride of philosophy. Never, never, will a philosopher, of the eighteenth century, say, I have been in the wrong. This is morally impossible. I have proofs of it, under my eyes, every day. I am not fool enough to pretend to enlighten you; but I ought to confound you. Reduce you to an impossibility of reply, to such a degree, that every man, who has not lost his senses, must laugh in your faces; and, believe me, the time is not far off, when all your magisterial solemnity, your empirical vanity, and your pedantic emphasis, will be the object of universal ridicule.

"Who can deny, that the fanaticism of our civil wars, occasioned by religion, was in manifest contradiction to the law of the Gospel, which reprobates it so formally, to that law of peace and love, which abhors all violence? Who can deny, moreover, that for a long time past, France, in particular, had been delivered from this scourge, to such a degree, as to have nothing more to fear, because the tolerance of the civil power had restored to protestants the privileges of citizens? Above all, who can deny, that the only fanaticism, which has made itself felt, in our days, was eminently the fanaticism of irreligion, carried to an excess of intolerance and fury, of which the writings of philosophers will furnish, upon examination, proofs without number.

"I have said what fanaticism is, in the language of good sense—Here follows the definition of it, in the monstrous language of the revolution. 'Fanaticism is a belief in any religion whatever: an attachment to the faith of our fathers: a conviction of the necessity of public worship: the observation of its ceremonies: a respect for its symbols: finally, that reciprocal difference of all civilized people, which obliges them, respectively, not to violate, any where, the exterior signs of religion. This is fanaticism. Whoever is convicted of it, is a public enemy, and ought to be exterminated.'

"I believe that no man will think fit to dispute, with me, any part of this definition, so exactly revolutionary, in all its points. I could too easily overwhelm, any one, who should contradict me, with the weight of the whole revolution, altogether, by citing in support of every article, facts, without number, even to the moment in which I write."

ORIGINAL CRITICISM.

FOR THE PORT FOLIO.

REVIEW OF THE GEORGICS OF VIRGIL.

TRANSLATED BY WILLIAM SOTHEBY, F. R. S. AND A. S. S.

(CONCLUDED.)

BOOK 4.

Of the extracts, given from the former books, of this version, a very small proportion has been made from the didactic parts. It may be remarked, of all the poems, which come within the class, to which the Georgics belong, that, their ornamental parts, are those, which chiefly attract the attention of the general reader. The blossoms of imagination, have more universal, and fascinating attraction, than the fruits of instruction; and the Georgics of Virgil, which will enchant the ear of harmony, and transport the soul of fancy, as long as taste and sentiment shall exist among mankind, would have been buried in oblivion, ages and ages since, had they contained nothing but directions for the choice of soils, for planting trees, for the management of vineyards, and for the breeding of cattle, and of bees. It has been a contested point, whether Virgil was a good husbandman, in his own age and climate; and whatever the fact may have been, his precepts, at this day, and in our regions, will not be of much more use to our practical farmers, than the learned agricultural societies, with which our *cities*, and those of modern Europe abound. The peasant at the plough will derive little benefit from the minuteness and accuracy with which Virgil has recorded, how the Roman plough was formed, in the age of Augustus; and the industrious housewife, will not sweeten our markets with an ounce more of aërial honey, for being initiated into the secret of Aristæus, or for having wept at the luckless lot of Eurydice.

In selecting our quotations, we have generally been desirous of presenting to the reader, such as would not only give him a taste of the translator's talents, but introduce, or recall to his attention, those passages of the original work,

which have been the special delight of twenty centuries....and these are the digressions, descriptions, incidental allusions, and accessories, which, the author of the Georgics, interwove, with such judgment and felicity, into a subject, which required all the faculties of genius, to be made capable of such an association. Yet we have occasionally extracted a few of the preceptive passages, and the reader of taste will perceive, from them, that Mr. Sotheby distinguishes himself, as much by the accuracy and precision, with which he reflects his model, in these places, as by the truly poetical congeniality with which he follows his flights and excursions of imagination.

As the professed subject of the fourth book, is the breeding and management of bees, we shall begin with the instructions for choosing the place of a hive. These are rigorously within the didactic part. But the reader, who pauses over them, will find all the fragrance of Parnassus, collected in this hive.

First, seek a station, where no ruthless gale,
Dares the still hive, and shelter'd bees assail:
Lest, as they homeward droop, o'erdone with toil,
Inclement blasts their loaded flight despoil;
Far from the sheep that wasted earth devour,
The wanton kids that bound from flower to flower,
Heifers whose roving steps the meadow bruise,
And dash from springing herbs nectareous dews.
There let no lizard arm'd with burnish'd scale,
Merops or bird of prey their walls assail,
Nor Procne haunt, whose conscious plumes attest,
The blood-stain'd hand imprinted on her breast.
These widely waste, and, seiz'd upon the wing,
To feed their nests the bee in triumph bring.
But there let pools invite with moss array'd,
Clear fount and rill that purls along the glade,
Palms o'er their porch a grateful gloom extend,
And the wild olive's shelt'ring boughs defend.
There when new kings the swarms at spring-tide lead,
And bursting myriads gladden all the mead,
Dim banks at noon may lure to cool repose,
And trees with hospitable arms enclose.
If sleep the stagnant pools, or currents flow,
Huge stones and willows 'mid the water throw;
That if a breeze across their passage sweep,
And headlong drive the loiterer to the deep,
On many a bridge the bee may safely stand,
And his wet plumes to summer suns expand.
There all her sweets let savoury exhale,
Thyme breathe her soul of fragrance on the gale,
In dulcet streams her roots green casia lave,
And beds of violets drink at will the wave.

The reader will observe, that in this passage, there is scarce a line, but blends some poetical beauty, with the precept to the husbandman. This is the peculiar characterestic of the Georgics. In them, Virgil, (says Addison,) has an air of dignity, even when he flings about his dirt. He exalts, he adorns, he vivifies, every thing he touches. It is in this respect, that Mr. Sotheby's version appears, to us, pre-eminently successful. It would be difficult to find a prosaic line in his whole work.

Our next extract, however, shall be from a part, which admits of warmer colouring, and more impressive energy. The hive in a state of civil war.

But if impending feuds the hive alarm,
When doubtful kings the frantic nation arm,
Tumultuous crowds the dread event prepare,
And palpitating hearts that beat to war;
Deep brazen peals the lingering crowds excite,
And harsh the voice like trumpets hoarse in fight.
Onward they troop, and, brandishing their wings,
Fit their fierce claws, and point their poison'd stings;
Throng to th' imperial tent, their king surround,
Provoke the foe, and loud defiance sound.
At length when spring expands th' unclouded day
Through opening portals bursts their wing'd array;
Fierce clash the clust'ring orbs, air rings around,
Prone from the conflict myriads strow the ground,
Thick as tempestuous hail from summer showers,
Or streaming acorns dash'd from oaken bowers.
Amid the press of war, the encountering kings,
Mark'd by the pomp and spreading of their wings,
While boundless souls their little bosom swell,
To deeds of glory either host impel;
Fiercely they fight, unknowing how to yield,
Till force resistless drive them from the field.
Yet at thy will these dreadful conflicts cease,
Throw but a little dust, and all is peace.

We cannot forbear remarking, the exquisite judgment, with which this last incident is introduced, to qualify the swelling grandeur of the previous description, which might otherwise have been considered as verging upon the ludicrous. But let us return to the translator, and inquire in what garb he will introduce to us, our old, familiar, and inestimable friend, the Corycian farmer.

Yes, I remember, where Galæsus leads
His flood dark-winding through the golden meads,
Where proud Oebalia's towers o'erlook the plain,
Once I beheld an old Corycian swain;
Lord of a little spot, by all disdain'd,
Where never lab'ring yoke subsistence gain'd,
Where never shepherd gave his flock to feed,
Nor Bacchus dar'd to trust th' ungrateful mead.
He there with scanty herbs the bushes crown'd,
And planted lilies, vervain, poppies round:
Nor envied kings, when late, at twilight close,
Beneath his peaceful shed he sought repose,
And cull'd from earth, with changeful plenty stor'd,
Th' unpurchas'd feasts that pil'd his varied board.
At springtide *first* he pluck'd the full blown rose,
From autumn *first* the ripen'd apple chose;
And e'en when winter split the rocks with cold,
And chain'd th' o'erhanging torrent as it roll'd,
His blooming hyacinths, ne'er known to fail,
Shed sweets unborrow'd of the vernal gale.
As mid their rifled beds he wound his way,
Chid the slow sun and zephyr's long delay.
Hence first his bees new swarms unnumber'd gave,
And press'd from richest combs the golden wave:
Limes round his haunts diffus'd a grateful shade,
And verdant pines with many a cone array'd;
And every bud, that gem'd the vernal spray,
Swell'd into fruit beneath the autumnal ray.
He lofty elms transpos'd in order plac'd,
Luxuriant pears at will his alleys grac'd,
And grafted thorns that blushing plums display'd,
And planes that stretch'd o'er summer feasts their shade.

The comparison of the works of the hive, with the labours of the Cyclops, is celebrated as a description, and as echoing the sense by the sound.

As when the Cyclops', for the Amighty sire,
Force from the stubborn mass the bolt of fire,
These slumb'ring flames with gather'd winds awake,
Those plunge the hissing bars beneath the lake;
Heav'd with vast strength their arms in order rise,
And blow to blow in measur'd chime replies;
While with firm tongs they turn the sparkling ore,
And Aetna's caves with labouring anvils roar.

The poet tells us, that, some philosophers, have derived, from the exquisite sagacity of the bee, an argument, in favour of the Platonic theology.

Hence, to the bee some sages have assign'd
A portion of the God, and heavenly mind;
For God goes forth, and spreads throughout the whole,
Heaven, earth, and sea, the universal soul;
Each at its birth from him all beings share,
Both man and brute, the breath of vital air;
There all return, and, loos'd from earthly chain,
Fly whence they sprung, and rest in God again,
Spurn at the grave, and, fearless of decay,
Live mid the host of heaven, and star the etherial way.

The story of Aristæus, and the progress of his adventures, from his first pursuit of Eurydice, and the snake in the grass, until the restoration of his hive, from the carcase of a bull, is too ridiculous to be told in prose. But it introduces Cyrene, Proteus, and the tale of Orpheus, which are all excellent vehicles for poetry. Cyrene, for instance, directs her son how to seize Proteus asleep.

"I, I myself thy step will safely guide,
And 'mid his inmost cave in ambush hide;
There shalt thou seize him, a defenceless prey,
And, bound in slumber, bid the God obey.
Then shall the seer new forms at pleasure try,
And with swift change elusive mock the eye:
Now bristle like a boar his horrent crest,
Now a fierce tyger spring upon thy breast,
Or wreathe in dragon folds his scaly train,
Or like a lion shake his brindled mane:
Now chang'd in crackling fire thy grasp betray,
Or glide a wave in liquid lapse away.
The more each monstrous form the seer belies,
More closely fetter in each new disguise,
Till the tir'd God, through every change pursu'd,
Resume the shape he wore when first by sleep subdued."

Perhaps no part of the Georgics has been read so generally, and with so great pleasure, as the story of Orpheus and Eurydice, which, the severe critics, have, indeed, pronounced to be a digression, or a *hors d'oeuvre*. Besides, the translations of Dryden and Warton, this part of the poem has been likewise attempted, by Addison, and much of it is incorporated by Pope, into his Ode to St. Cæcilia. We shall take from Mr. Sotheby, only a short extract.

"He, lonely, on his harp, 'mid wilds unknown,
Sooth'd his sad love with melancholy tone:
On thee, sweet bride! still dwelt th' undying lay,
Thee first at dawn deplor'd, thee last at close of day.
For thee he dar'd to pass the jaws of hell,
And gates where death and darkness ever dwell,
Trod with firm foot in horror's gloomy grove,
Approach'd the throne of subterraneous Jove,
Nor fear'd the manes and stern host below,
And hearts that never felt for human woe.
Drawn by his song from Erebus profound,
Shades and unbodied phantoms flock around,
Countless as birds that fill the leafy bow'r,
Beneath pale eve, or winter's driving show'r.
Matrons and sires, and unaffianc'd maids,
Forms of bold warriors and heroic shades,
Youths and pale infants laid upon the pyre,
While their fond parents saw the ascending fire:
All whom the squalid reeds and sable mud
Of slow Cocytus' unrejoicing flood,
All whom the Stygian lake's dark confine bounds,
And with nine circles maze in maze surrounds.
On him, astonish'd Death and Tartarus gaz'd,
Their viper hair the wond'ring furies rais'd:
Grim Cerberus stood, his triple jaws half clos'd,
And fix'd in air Ixion's wheel repos'd."

We shall close our extracts, from this work, with the concluding verses of the poem, in which, of all the English translators of the Georgics, in verse, Mr. Sotheby, alone, has preserved the name of the poet, which, in the original, he had carefully introduced.

Thus sung the muse, in unambitious strains,
Of trees, of cattle, and of cultur'd plains:
While mighty Cæsar, where Euphrates flows,
Amid the battle, arm'd in thunder, glows,
Victor o'er willing realms his laws extends,
And from the world to opening heaven ascends.
I, VIRGIL, then, 'mid Naples' grateful bow'rs
In ease inglorious nurs'd my studious hours,
I, whose bold youth the pastoral strain essay'd,
And sung thee, Tityrus, in the beechen shade.

From the specimens thus selected, every reader of English verse, can judge of the poetical beauties, and harmonious numbers, of this translation, considered without reference to any other attempt at the same performance. We have, before, given our only reasons for not placing the parallel passages of Dryden and Warton. Should any of their admirers, scruple the justice of our decision, in this comparison, let them take at random, twenty lines, from any part of the Georgics; examine the three versions, and form their own estimate.

There is, however, another, and a most essential requisite, for good translation, which is, fidelity to the original. It is difficult to settle claims of comparative merit, in this respect, because the principles themselves of translation, are not accurately determined, and because different men have entertained different opinions,

concerning the application of this fidelity; some confining it to the *ideas* of the model, while others extend it more to the *general sense*, and others, yet more liberal, would enlarge to the imitation of *style and manner*. We believe, that the most indulgent latitude, is the best law for *poetical* translation, and, although we think Warton has, upon the whole, kept closer to his author's *ideas*, Mr. Sotheby, beyond all comparison, has given us more of the poet.

It is the task of candid criticism, to detect errors, and notice faults, as it is her pleasure to discover and point out beauties. Some of the imperfections, in Mr. Sotheby's work, have not altogether escaped our attention, but we think them scarcely worthy of being mentioned. Passages, of the Latin Georgics, there are, the full charm of which, we believe, incommunicable, in any other than their native language. To say that Mr. Sotheby himself has fallen short of them, is only to say of the sublimest poetry, what Junius, sarcastically, said of the meanest; that it sets all translation at defiance.

It has long been observed, of English versification, that, when polished in the highest perfection, it is apt to become tediously monotonous. We have seldom felt the justice of this remark, and, we confess, we have never found even the continued harmony of Pope's numbers tiresome. Yet, in them, and in the work now before us, we have sometimes seen too frequent a recurrence of the same forms of words.

" And the chill north, that blisters as it blows"—
" And the clogg'd river, freezes as it flows"—
" Mid climes where Tanias freezes as it flows"—

Other instances, of the same kind, might be adduced, but we forbear. The pleasure we have derived, from Mr. Sotheby's work, has been so nearly unalloyed, that after enjoying it, to spend our time in carping, at such trifles as these, would be a species of ingratitude, utterly abhorrent to our nature.

POLITE LITERATURE.

FOR THE PORT FOLIO.

ANALYSIS OF SHAKSPEARE'S " AS YOU LIKE IT."

THE character of Touchstone, though not so interesting as Jaques, is more amusing, and perhaps cost the Poet more pains to draw. The FOOL is no longer considered as a necessary appendage to the court, and the practice of having one as a menial officer in the palace, began to be disused about Shakspeare's time. He had therefore no living model to sit for his fool, and it necessarily must be the work of his own fancy, aided by the slender gleaning he had picked in the fields of tradition. We do not deny the existence of fools in Shakspeare's day, for the tribe is so populous now, that it necessarily must have had an higher origin than the reign of Elizabeth. But a common fool was not intended to be designated by Touchstone. It was that peculiar character who was maintained at the court; whose sole study and occupation was to amuse the royal ear with jests, and who claimed " liberty, as large a charter as the wind to blow on whom he pleased." He lived by his wit, and such fools have been rare in all ages. It is then obvious that such a character was difficult to delineate, not only that the poet must rest chiefly on his own inventive powers, but because the conversation of " *the Fool*" must be an incessant scintillation of wit and humour; for it cannot have escaped the notice of even the most desultory reader, that Shakspeare's fools are, as Jacques terms them, " *material fools*," and are, in fact, the wisest men in the drama, if, as we are disposed to believe, laughing at the cares of life, be wisdom, and the " *carpe diem*," of Horace, be the soundest philosophy. The chief trait in the character of Touchstone, is wit. He is a steady friend, and always in a good humour. His shafts of wit fly thick, but they are not pointed with gall. He is a pleasant companion, and if he be a faithful copy of " *the Fool*," who, in days of yore, was wont to frequent the palace, Kings were not unwise in purchasing so much amusement, at a price so small. We shall introduce him to the better acquaintance of our readers, in the course of our analysis.

Audrey is the only remaining character of Shakspeare's invention, in this play. She is introduced but seldom, and that, chiefly to give Touchstone an opportunity of making love, and to point out to us the operation of that passion, on a mind free from the affectation of prudery, and unvitiated by the " *sentiment*" of Rousseau, or the " *sensibility*" of Sterne. She has all the naiveté of rustic honesty, and, like some of her superiors, who shine in the circles of fashionable life, finds, in a new face, the charm of novelty, and prefers the *stranger*, Touchstone, to the lovers of her native woods. She is amusing, and our only regret is, to see her so seldom.

The character of Orlando is finely drawn. He has a noble spirit, and his principles are pure. In his courtship of Rosalind, the poet has discovered great originality. His practice of " *marking the trees, with writing love-songs in their barks*," is a delicate satire on the romance of love, and the youth, who feels the warm blood hurrying through his veins, on the gentle pressure of the hand of his mistress, or cherishes, with sacred affection, a lock of her hair, will confess that Shakspeare knew " *what 'twas to love.*" Orlando's generous rescue of the brother, who had persecuted him, and driven him into exile, is an impulse of nature, and his warm affection for the aged Adam is not a strange sensation, in the breast of the youth, who, while he scorns and abhors the Gallic construction of the doctrine of Equality, feels and confesses that the poverty of the plebeian is an irresistible claim on the charity of the patrician, and that OLD AGE should be honoured with even more than Spartan respect. The character of Orlando is faithful and correct, and the ardour of his devotion to a terrestrial object, is not the trait, in this portrait, which bears the least resemblance to nature.

The wit, and the playful sprightliness of Rosalind, secure to her the attention of the reader, and the innocent arts, by which she gains and preserves the heart of Orlando, will be pardoned by those who know what a pang it is to suffer

" Affection, like a worm, in the bud,
To prey on the damask cheek."

Her conduct may offend the eyes of the prude, whose outrageous virtue, may scold at such a violation of propriety. But Rosalind does not " o'erstep the modesty of *nature*," and if she had, Orlando, whose purity of affection would feel most offence at it, would be the first to extend a pardon. Shakspeare, with most others, was of the opinion, that there were as weighty reasons, why the first declaration of love should be made by the man, as that the House of Commons should originate money-bills; but he thought, also, that, when an attack is expected, preparation might, with propriety, be made to receive it; and, if love be deemed a crime, it might require more than one hour's calculation to compute the individual instances, on record, of the woman having been the first offender.

Adam is an aged servant, and is principally characterised by a warmth of attachment to his master. He leaves us in the second act, but not until he has wormed himself so completely into our hearts, that, while some are yielding to the momentary impression, that scenes of real life are passing before us, they feel a regret that he is not rewarded, at the conclusion of the comedy, for his faithfulness and affection, particularly as in the novel, from which Shakspeare has borrowed him, he is made a captain of the King's guard. But this regret is of momentary duration, for although we do not concur entirely, in sentiment, with Dr. Johnson, that no man *ever* mistakes a representation for reality, yet the deception is very rare, and when it does occur, is short-lived, as the spark that shoots from the fire.

Sylvius is a shepherd. He is principally marked by the ardour and the humility of excessive love. He loves Phœbe, while she scorns him. Romantic love has made many such characters, and while we admit it to be not only natural, but of frequent recurrence, we neither envy the situation of Sylvius, nor compassionate the man who, in yielding to the influence of love, loses sight of his own dignity. Rosalind says, that love has " *made him a tame snake*," by which is meant, " a contemptible fellow." Nice observers of the human heart, have asserted, that a woman, who rejects the addresses of a man, feels, for him, a grateful esteem, for the offer of his hand. This may be correct. Yet we are not certain, but that each lady, when it is not her own situation, feels, as she certainly *does express*, a contempt for such a man. Our business, however, is to do justice to Shakspeare, and we render no more than justice, when we say, the character of Sylvius is natural, and finely drawn.

(To be continued.)

LAW INTELLIGENCE.

SHERIFF'S COURT.

BURST v. *HALFORD.*

This was a cause of a very curious nature. The Plaintiff was one of those persons called *Nicknackitarians;* he was a dealer in all kinds of curiosities and antiques, such as Egyptian mummies, Indian implements of war, arrows, dipped in the poison of the Upas tree, bows, antique shields, helmets, &c. He was described as possessing the skin of the cameleopard, exhibited in the Roman amphitheatre, the head of the spear used by king Arthur, and the breech of the first cannon, employed at the siege of Constantinople, and, in short, of almost every rarity that the most ardent virtuoso could wish for. The Defendant was the executor of a widow lady, of the name of Morgan, who, in the enjoyment of a considerable fortune, had indulged her fancy, and amused herself in collecting objects of natural and artificial curiosity. She had been long in the habit of purchasing a variety of rare articles of the Plaintiff. She had bought of him models of the Temple of Jerusalem, and the Alexandrian Library, a specimen of the type, invented by Mammon, the Egyptian, and a genuine manuscript of the first play, acted by Thespis and his company, in a waggon. For all these she had, in her lifetime, paid most liberally. It appeared, also, that she had erected a Mausoleum, in which the deceased's husband was laid, and in which her own remains were to be deposited. The Plaintiff had been employed in fitting it up, and ornamenting it with a tesselated pavement; this was also paid for, and constituted no part of the present demand. The present action was brought against the lady's executor, to recover the sum of 40l. for the expense and labour of stuffing and embalming a bird of paradise, a fly-bird, an orang-outang, an ichneumon, and a cassowary. The Defendant did not deny that the Plaintiff had a claim on the estate of the deceased; but he let judgment go by default, and attempted merely

to cut down the demand. The Plaintiff's assistant proved that the work had been done by the direction of Mrs. Morgan, and that the charge was extremely reasonable. The Defendant's Solicitor, on the contrary, contended, that the charge was most exorbitant. He said, the museum of the deceased lady had been sold, by public auction, and that the whole of the curiosities it contained, which she had been all her life collecting, including those she had had of the Plaintiff, did not produce more than 110l.—As to the stuffed animals, which constituted the present demand, they scarcely defrayed the expense of carrying them away—they were absoslute rubbish. On the other side it was observed, that the value of the Plaintiff's labour merely depended on taste, and could not be appreciated by what the objects produced at sale.

The Under Sheriff observed, that, in matters of fancy, the intrinsic value of an article was not the proper medium of ascertaining the compensation due to the labour which produced it. A Virtuoso frequently expended a large sum of money upon what another man would kick out of his house as lumber. If Mrs. Morgan, who was a lady of fortune, wished to amuse the gloomy hours of her widowhood, by stuffing apes and birds, her executor was at least bound to pay the expenses she had incurred, in indulging her fancy. He saw no reason, why a single shilling, of the demand, should be taken off.—Verdict for Plaintiff. Damages 40l.

FOR THE PORT FOLIO.

MISCELLANEOUS OBSERVATIONS, No. 3.

UPON MEN AND THINGS.

We congratulate the people of the United States, upon the overflowing proofs they daily receive, from the seat of government, that the national house of representatives, is purified from all infection of executive influence. They have unanimously voted out of doors, one Mr. Van Ness, a member from the state of New-York, who, during the recess of congress, had accepted a major's commission, in the militia of the district of Columbia. Mr. Van Ness, who is a democrat of the first water, *did not know*, it seems, that the two offices were incompatible, and honestly told the house, that if he had thought they would turn him out, he never would have accepted the military commission.... As Mr. Van Ness, in consequence of the house's decision, is like to have some leisure on his hands, we recommend it to him, in this "piping time of peace," of which our pacific president's message so justly boasted, to attend a course of lectures, upon constitutional construction.

The house was *unanimous* in the decision. Mr. Randolph, in extasies of wonder, insisted upon having it recorded on the journals, as an ever-memorable proof of their freedom, from all executive influence. Now, if the executive had proposed to the house to pass a law, enacting, that two and two make seven, and they had magnanimously rejected the proposition, we humbly conceive, that it would have been equally good proof of their independence, as their exclusion of Mr. Van Ness.

But this is not all. Our philosophic president, in the multitude of his plans, for the benefit of his country, has received, adopted, and urgently recommended, the scheme of a most ingenious projector, for expending not more than two or three millions of dollars, to make a *dry dock*, where ships of war may be hauled up, and kept dry. The length of time, during which the ships might be thus kept in a state of perfect preservation, is indefinite. The idea must have been adopted, we think, from the ancient Egyptian art of embalming dead bodies. The restoration of that noble invention, and its application to the conservation of our navy, is one of those sublime and œconomical contrivances, which will immortalize the present administration. Three thousand years hence, the *mummies* of our frigates, may thus be exhibited, to the admiration of the curious, entire, undecayed, and, at least, as useful to the public service, as they are at this day.

Well....when this darling child of presidential speculation, shewed its innocent little face, in the house of representatives, some of the democratic members, treated it with as little respect, as if it had been a child of Black Sally, the mulatto boy, Tom, come to claim their patronage. Among the rest, Mr. Bacon found it in his heart to bestow no small portion of his tediousness upon the house, to assure them, that the recommendation of the *president*, would be no reason to *him*, for adopting the measure. This Mr. *Bacon's* congressional career, to the great satisfaction of all, who attend to the debates, is about to expire. He, therefore, can afford to be independent, for the short time he has to live in congress. But to do him justice, we believe him as little trammelled, by party, as any man of his sect. Those who know his character, say, that he never can be zealous for any measure, which originates without the circle of *his own* sapience; and that, bating a bias of *instinct*, towards the wrong side of a question, which generally sways him, he would vote right, about half the time. This *instinct*, indeed, is a great thing.

We hasten to record these vaunts of legislative independence, and, if any symptoms, yet more unequivocal, of their veracity, should appear, we shall be equally happy to notice them.

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WHO'S THE DUPE?

The *pious* patriot, Samuel Adams, of Massachusetts, some time since, wrote a letter to Tom Paine, complimenting him upon his *Common Sense*, his *Crisis*, and his other useful labours in the *American* revolution; but taking him to task for his *infidelity*, and a certain *Age of Reason*, of which the pious patriot had heard. Tom wrote him a long and elaborate answer, with a profusion of "my dear friends," and "my venerable friends;" but lashing the pious patriot, for his censure of a book upon mere hearsay, without having read it. Tom was so proud of his own performance, that he first gave several copies of both letters, and finally published them in the newspapers. "My dear friend," and "my venerable friend," never was a frequenter of the theatre, but he may have heard of a comedy, called, "Who's the Dupe?" If he will write another letter to his "dear friend" he can tell him.

The friends of christianity, have never had reason to fear Tom Paine, as an adversary. But they will have some cause of alarm, if the *pious patriot* undertakes its defence.

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The Connecticut jacobins, are invited to assemble, one and all, at New-Haven, on the 9th day of March next, to *rejoice*. The subject of their rejoicing, is to be the election of Mr. Jefferson, and the long train of blessings it has drawn down upon this country. Pierpont Edwards, is to preach them a discourse upon *political morality*, upon the approaching regeneration of Connecticut, and upon Mr. Jefferson's public and private virtues; enlarging more especially upon his chastity, and the correctness of his taste in love.

One of the main pillars of this same administration, over which Pierpont Edwards, Abraham Bishop, & Co. mean to *rejoice*, James Cheetham, has denounced to the public, and attempted to prove, that these very rejoicers, intrigued, to the utmost of their power, *against* Mr. Jefferson's election. So that their purpose now is to rejoice at their own defeat; which, every honest man, will acknowledge to be a very substantial cause for joy.

The discourse upon *political morality*, Mr. Edwards, without much expense of mind, may obtain ready written, published at the Aurora office, and, during the life and power of its author, much celebrated, by all the Monticellian party here. The author was *Robespierre*.

The characters of Edwards and Bishop, are pretty well known, in their own neighbourhood. May God have mercy upon the poor state of Connecticut, if she is to go through a process of regeneration, under the discipline of such instructors. Regenerators, like them, France has had in abundance, till gorged and sickened with the blood they drew from her own veins, and made her drink, she now lies lifeless, or swooning, under the apoplectic stroke they have brought upon her. Regenerators, like them, during the consulate of Cicero projected giving freedom, like theirs, to ancient Rome; and had Cataline succeeded, they too would doubtless have had their assemblies to rejoice. In coupling the names of Cataline and Robespierre, with those of Pierpont Edwards and Abraham Bishop, it is but justice to the memory of those *departed* worthies, to say, that we mean to compare only their *intentions*, and their hearts. We know the rule of proportion too well, to name, in the same day, their comprehension of views, or their powers of execution. When Bishop and Edwards are compared to great and bad men, recorded in history, we must always bear in mind, that one half the simile is utterly inapplicable.

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When Mr. Randolph wanted to prove, that the *federalists* could not possibly be friends to the free navigation of the Missisippi, after it has been solemnly stipulated, in a treaty, made by a *federal* negotiator, under a *federal* administration, he produced a document, to shew, that, ten years before that treaty was made, the *seven eastern states*, voted to accept a *conditional* acknowledgement of the right, which Spain then contested, which she had then never recognized, and from which we were then, *in fact*, excluded. Mr. Randolph's argument is not content with merely annihilating time, space, and circumstance, it requires that the *federalists* and the *seven eastern states*, as they stood in 1786, should be one and the same thing.

There is one thing, however, which Mr. Randolph's use of that document, for that purpose, sufficiently proves....It is, his the said Randolph's temper, and disposition, towards all the eastern states, including Pennsylvania. However, he may babble about federalism, and republicanism, it is evident, that, in heart, the real object of his hatred is the *eastern states*. This is the true secret of the Monticellian politics; and the people of the eastern states will do well to be aware of it. Duane and Cheetham, for years past, have scarcely published a paper without abuse upon *New-England*, the New-England states, and the people of *New-England*; but it was reserved for Mr. Randolph to discover, that in the proscriptions of Mr. Jefferson's party, not only New-England, but all the eastern states, and Pennsylvania among the rest, must be included.

MISCELLANEOUS PARAGRAPHS.

FOR THE PORT FOLIO.

The great questions, which, during the course of the last, and present sessions, have been agitated in the legislature of the United States, on the subject of judicial appointments, and the power of the legislative and executive branches

of our government, to revoke and annul judicial commissions, at their *will and pleasure*, even when made with all the requisites of constitutional authority, have given rise to sundry documents, worthyof preservation.

When a calm shall succeed to the tempest, which has raged with such violence, for several years, between the two great parties, that divide the people of the United States, these documents will be referred to, as the most important of state papers. They will be regarded, as records and memorials of transactions, in the annals of our legislation, which, we have no hesitation in believing, will, at no remote period, be productive of pernicious consequences to the American nation; consequences foreseen, proclaimed, and deprecated by the *federalists*, who, by a manly resistance against encroachments by one branch of the government, upon the immunities of another, have incurred, what? *A loss of popularity*. Oh foul and lamentable comment upon a government purporting to be founded on representation! A government so fluctuating and unstable, that for a representative, chosen by the people, to act on their behalf, *to do his duty*, is to *forfeit their confidence*.

The following memorials, and the proceedings upon them in the Senate of the United States, are submitted to the reflection of our readers.

The speech delivered by the honourable Gouv. Morris, is extracted from the New-York Herald, as reported by a correspondent of Mr. Coleman.

THE MEMORIAL OF THE CIRCUIT JUDGES.

To the Honourable the Senate and House of Representatives of the United States, in Congress assembled,

THE UNDERSIGNED MOST RESPECTFULLY SUBMIT THE FOLLOWING REPRESENTATION AND

MEMORIAL.

By an act of Congress, passed on the thirteenth day of February, in the year of our Lord one thousand eight hundred and one, entitled, "An act to provide for the more convenient organization of the courts of the United States," certain judicial offices were created, and courts established, called Circuit Courts of the United States.

In virtue of appointments made under the constitution of the United States, the undersigned became vested with the offices so created, and received commissions, authorising them to hold the same, with the emoluments thereunto appertaining, during their good behaviour.

During the last session, an act of Congress passed, by which the above mentioned law was declared to be repealed; since which no law has been made for assigning to your memorialists, the execution of any judicial functions, nor has any provision been made for the payments of their stipulated compensations.

Under these circumstances, and finding it expressly declared in the constitution of the United States, that "the Judges, both of the Supreme and Inferior Courts, shall hold their offices during good behaviour, and shall, at stated times, receive, for their services, a compensation which shall not be diminished during their continuance in office," the undersigned, after the most deliberate consideration, are compelled to represent it as their opinion, that the rights secured to them by the constitution, as members of the judicial department, have been impaired.

With this sincere conviction, and influenced by a sense of public duty, they most respectfully request of Congress, to review the existing laws which respect the offices in question, and to define the duties to be performed by the undersigned, by such provisions as shall be consistent with the constitution, and the convenient administration of justice.

The right of the undersigned to their compensations, they sincerely believe to be secured by the constitution, notwithstanding any modification of the judicial department, which, in the opinion of Congress, public convenience may recommend. This right, however, involving a personal interest, will be cheerfully submitted to judicial examination and decision in such manner as the wisdom and impartiality of Congress may prescribe.

That judges should not be deprived of their offices or compensation without misbehaviour, appears to the undersigned to be among the first and best established principles in the American constitutions; and in the various reforms they have undergone, it has been preserved and guarded with increased solicitude.

On this basis, the constitution of the United States has laid the foundation of the judical department, and expressed its meaning in terms equally plain and peremptory.

This being the deliberate and solemn opinion of the undersigned, the duty of their stations requires that they should declare it to the legislative body. They regret the necessity which compels them to make the representation, and they confide, that it will be attributed to a conviction, that they ought not, voluntarily, to surrender rights and authorities, intrusted to their protection, not for their personal advantage, but for the benefit of the community.

Here follow the names of the Judges.

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IN SENATE OF THE UNITED STATES.

JANUARY 28.

Mr. Morris, from the committee to whom was referred the memorials of Judges Basset, Benson, Bourne, Griffith, Hitchcock, Key, Magil, Smith, Taylor, Tilghman, and Wolcott,

Reported, That the petitioners were judges of certain courts, inferior to the supreme court, constituted by an act of the 13th of February, 1801, and duly commissioned to hold their offices during good behaviour.

That, while holding and exercising their offices, an act was passed on the 8th of March last, to repeal the said act of the 13th February, 1801, and tranfer the duties of the said judges from them to others.

That a question has arisen, whether, by reason of the premises, the said petitioners be deprived of their of offices.

That this question depending on the construction of the laws and constitution of the United States, is not properly cognizable by the Senate.

The committee, therefore, conceive it improper, either to give reasons, or express opinions; but they consider it as a question of high and serious import, and believe that a speedy investigation, and final desicion, is of great moment to the commonwealth.

Wherefore, they submit the following resolution:

Resolved, That the President of the United States be requested to cause an information, in the nature of a *quo warranto*, to be filed by the attorney general, against Richard Basset, one of the said petitioners, for the purpose of deciding judicially on their claims.

Read, and made the order of the day for Wednesday next, (this day.)

Attest. S. A. OTIS, Sec'ry.

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FROM THE NEW-YORK HERALD.

Our readers will recollect, that under the administration of Mr. Adams, several persons were appointed justices of the peace, for the district of Columbia, and their commissions regularly made out; but as they were not delivered before Mr. Jefferson came into office, he saw fit to suppress them. It became, therefore, a very important question, whether the president was authorised to withhold a commission, which, under his predecessor, had gone through all the forms of law but delivery. Accordingly, three of the justices, who were in this situation, made application to the supreme court of the United States, for the purpose of having this inquiry solemnly made, and decided upon. The proceedings, on this subject, are still pending, and the parties, who instituted them, have been advised, by their counsel, that an extract, from the minutes of the senate, confirming their nominations, would be material evidence, in their behalf. They, therefore, presented the memorial, which is subjoined. The resolution, moved in consequence of it, gave occasion to Mr. Morris's speech.

If party zeal did not extinguish all regard for character, not enlisted under its own particular banner, every class, of our citizens, would surely feel a pride, in having our state represented, by a man so distinguished for genius, talents and eloquence, as Mr. Gouverneur Morris. But all emotions of this kind are stifled....In the mad rage for change, we see our country deprived of his services, and another foisted into his place, no more like him, than a *Satyr to Hyperion*.

SENATE OF THE UNITED STATES.

On the 28th of January last past, was presented to the senate, the following petition, viz.

To the honouable the senate of the United States of America. The petition of William Marbury, Robert Townsend Hooe, and Dennis Ramsy, most respectfully sheweth:

That your petitioners have been informed, and verily believe, that John Adams, while president of the United States, nominated to the senate of the United States, for their advice and consent, your petitioner, William Marbury, to be a justice of the peace, in the county of Washington, in the district of Columbia, and your petitioners, Robert Townsend Hooe, and Dennis Ramsay, to be justices of the peace, in the county of Alexandria, in the same district; that the said nominations were duly taken into consideration by the senate, who, on or about the first day of March, in the year one thousand eight hundred and one, were pleased to give their advice and consent, that your petitioners should be severally appointed to the offices aforesaid; that commissions were accordingly, in due form, signed by the said president, and directed to be sent to your petitioners by the secretary of state, but that your petitioners, from some cause, have been deprived of their commissions, and are reduced to the necessity of asserting their rights to the same, in a judicial course of proceeding, in which, as they are advised, it will be requisite to produce satisfactory evidence of the advice and consent of the senate, to the appointment of your petitioners, to be justices of the peace, as aforesaid, in the district of Columbia. Application has been made, to the secretary of the senate, for his certificate, that the advice and consent of the senate was given, in consequence of the nominations aforesaid, that your petitioners should be appointed to be justices of the peace in the district of Columbia aforesaid, which your secretary has declined giving, without the leave of the senate. Your petitioners pray the premises may be taken into consideration, and that your secretary may be permitted to give to your petitioners, a certificate in usual form, setting forth, that your petitioners, having been nominated by the president of the United States, to the aforesaid offices, severally and respectively of justices of the peace, in the district of Columbia, the senate advised and consented

to their appointment. And as in duty bound, &c.

WILLIAM MARBURY.
R. T. HOOE.
DENNIS RAMSAY.

The petition was laid on the table, and on Monday, the 31st of January, was called up, by Mr. Howard, and the following resolution was presented, by him, for the purpose of granting, in form, the prayer of the petition.

"*Resolved*, That the secretary of the senate, be directed to give an attested copy of the proceedings of the senate of the 2d and 3d of March, 1801, so far as they relate to the nomination and appointment of William Marbury, Robert T. Hooe, and Dennis Ramsay, as justices of the peace, for the counties of Washington and Alexandria, in the territory of Columbia, on the application of them, or either of them."

SPEECH OF GOUV. MORRIS.

MR. PRESIDENT,

When I first rose, in this debate, I felt and expressed much doubt; but the better reason appearing in favour of the resolution, I had determined to vote for it. At present, my opinion is clear and decided....The conviction has been produced by the arguments of those who oppose the resolution. These contain the most monstrous system of tyranny, that ever, I believe, was brought before a national assembly. Permit me to notice a few of the strange positions which we have just heard.

It has been said, by a gentleman from Georgia, on my right, (Gen. Jackson,) that an extract from our executive journal, should not be given, to a suitor in one of our courts, because it may contain matter, to support an impeachment, against the president, which impeachment, is to be tried before us; and, therefore, we, being judges, should not, also, become parties, by furnishing evidence. And yet, the same gentleman, has told us, that, upon the demand, of the other house, (who, according to him, have a right to demand every thing,) we are bound, to furnish, every evidence, if they require it, for the purpose of bringing, and maintaining an impeachment. Thus, we must withhold, from a fellow citizen, the evidence, needful to support his right, because it may furnish ground for impeachment, although no question of impeachment exist. This too, it seems, is required, by the impartiality, which we should preserve, as judges, before whom, such possible impeachment, may be tried; but where there is a question of impeachment, and where we are, in effect, the judges, then, forsooth, on the demand of the other house, we are bound, to furnish that evidence, which we are bound, now, to withhold.

We have been told, that the executive officers are all dependent on the Chief, and act under his directions; that, therefore, his dignity is implicated in their acts.—And, consequently, the conduct of these agents must not be questioned, lest his dignity be impaired. What broader shield can be interposed to shelter the agents of executive authority? How can they be more confessedly guarded against all investigation?

We are further told, that a condemnation of those agents must affect the dignity of our First Magistrate. Must it, indeed? And is, therefore, no prosecution to be made; is no condemnation to take place? This is, indeed, the golden chain, let down from Jove, to bind the earth in vassalage. And what becomes of our President's dignity, under this strange doctrine. A subordinate agent abuses his trust, violates his duty, is guilty of mal-practice; he is arraigned; and because the culprit is convicted and condemned, is the dignity of Government, therefore, violated?

We have been told, that a Treaty, when proclaimed, by the President, is the supreme law, and that the previous assent of the Senate cannot be inquired into. Gracious God! And is it come to this, that the proclamations of our President shall be the supreme law of the land? That we must submit to it without inquiry? And how is this monstrous doctrine supported? Why we are told, that because it is not proper in the case of a common Statute to examine the Journals of the two Houses, for the purpose of knowing whether the assent of each was given, therefore, we must not examine the executive Journal of the Senate, to know whether two thirds of the members present advised and consented to the ratification of a Treaty. But are these cases at all similar? The law is signed by the President of the United States, the President of the Senate, and the Speaker of the House. It contains, therefore, the best evidence in the nature of things, that the full assent, required by the Constitution, has been given. But is this the case with a treaty? No. The evidence of the consent of this Senate appears only by extracts from their minutes, made out by their Secretary. And shall this preclude the inquiry, whether, in effect, that assent was given, which your Secretary has certified?

We have been told, by gentlemen, who seem to know all the merits of the case, which is before the court, that the dignity of the President is involved in it. For my own part, I know nothing of the case, neither do I wish to know, for I have no authority to try it. But the gentlemen say, the dignity of the President is involved, and that we are in duty bound to protect his dignity. But how? What have the petitioners asked? They have asked the evidence of a fact. And how are we to protect the President's dignity? By withholding that evidence. And are gentlemen then of opinion, that a disclosure of facts will impair the dignity of our First Magistrate? Sir, I have no such apprehension. I trust that our President has acted properly, and that a full inquiry into facts, must redound to his honour. Those who offer this resolution, seem to think otherwise. But I ask, are they prepared, by their vote, to declare that injurious opinion? Is there a gentleman, in this Senate, who, when the yeas and nays are called, will record his opinion, that the dignity of our President can only be preserved by withholding the evidence of facts?

We have been told, Sir, by an honourable member, from Kentucky, (Mr. Brackenridge,) that a right to examine, implies a right to correct and controul. This proposition has been frequently advanced, on different occasions. I never noticed it, because it appeared to carry, within itself, the sufficient evidence of its fallacy; but since it is now again produced, it may be well to give it one moment's notice. A right to examine, whether we agree to a certain resolution, implies, it seems, a right to controul our conduct. It may be a question, in an insurance cause, whether damages were sustained by a violent wind at sea. Does the examination, into that fact, imply a right to command the winds and the seas? Does the inquiry, whether a ship has perished in the storm, imply the right to correct and controul the Almighty ruler of storms?

We have been told, by the member, last up, from Georgia, that the evidence asked for, by the petitioners, is useless, because, although the Senate may have approved of them, as officers, upon the President's nomination, yet it was in the discretion of the President to make or omit the appointment, which alone could confer a right. That gentleman seems to be perfectly acquainted with the cause, which is depending. He knows precisely what proof is needful for the prosecutor; and deeming that, which he asks for, to be insufficient, thinks proper to refuse it.

It appears to me, Sir, that this Senate is not the proper tribunal, either to examine the merits of the cause, or the validity and weight of evidence: these are the proper subjects of inquiry elsewhere. If we adopt the gentleman's reasoning, however, we prejudge the cause: and, I shall be glad to know, if this practice be adopted, what case can exist, in which a like refusal may not be made. A client is advised, by his counsel, to apply to us for evidence, in our power, as needful to support his rights—We refuse, because, in our opinion, that evidence is not alone sufficient.

But the same gentleman has told us he would not establish any general precedent—He would always judge of the particular circumstances; and, under the particular circumstances, of this case, he would withhold the evidence asked for. But will not this establish a general precedent? How are precedents established? Is it usual for judges to make decisions, for the special purpose of becoming precedents? No such thing. They give judgment in a case which comes before them, and that judgment becomes a precedent for subsequent cases, turning upon the same principle. I shall be glad to know then, how a distinction is hereafter to be taken between this and other cases. Here is a suit pending in a court of justice, and one of the parties applies for a piece of evidence which, he is advised, is material to establish his right—you refuse it. When in another cause, another party shall apply, on what ground will you grant that which you now refuse? Will you again prejudge the cause, and give them the proof, because you deem it sufficient to carry the cause?

Mr. President, one word more on that unity of the Executive, which the gentleman last up, is so much attached to. Although I have already spoken longer than I intended, I must pray one moment's attention. That honourable gentleman thinks there should be a perfect unity in the Executive power. The division of it is inconsistent with his ideas of good government, and, therefore, he would admit of no inquiry, as to facts, which may have happened in the course of Executive volition, but give full credit to the commissions and proclamations of the President. These ideas, Sir, consist well with monarchic institutions. Our sovereign lord, the king, is, indeed, possessed of the fullness of executive power, and may exercise it at his pleasure; but as to our sovereign lord, the president, the case is widely different. The American Constitution has given, to this Senate, a wholesome check upon his sovereign will. But, according to the doctrine, which gentlemen now advance, this check is nugatory. Neither the people, nor the courts shall question his commissions nor his proclamations. His commissions, it seems, confer complete authority; his proclamations are the supreme law; he may form what leagues he pleases with foreign powers, and when he shall proclaim them, we are held to implicit obedience. To these doctrines, Sir, I take leave to enter my dissent. I hope that when the rights of American citizens are invaded, not only the Supreme Court of the United States, but the County Court of the most remote District, will dare to examine, to judge, and to redress. I hope this Senate will never, by an admission of such base and slavish doctrines, surrender the authorities conferred on them, by our Constitution. I hope they will ever be ready to aid the cause of freedom and justice—and, in this hope, I shall give my vote for the resolution on your table.

ORIGINAL POETRY.

FOR THE PORT FOLIO.

TO MUSIC.

AN [illegible] ON HEARING A YOUNG LADY PERFORM A SONATA OF HAYDN.

Music! could words thy pow'r define,
Who dare pretend to sing thy praise;
Thy origin, thy force divine,
Defy the Poet's lays:
When heav'nly Genius strikes the lyre,
What breast but owns thy sacred fire;
See, captive held within thy chain,
Each *passion* owns thy magic charm;
Thy voice can dark Revenge disarm,
And Murder's hand restrain.

The Savage, foe to light and day,
Though Pity ne'er assail'd his breast,
If met by thee neglects his prey,
To prove he can be blest.
The Soldier, in the clarion's sound,
Soon forgets his bleeding wound,
Eager, proud Glory to obey;
With thee, he flies amid his foes—
In vain may Danger's form oppose,
When Music leads the way.

The Miser, in whose sordid mind,
Pleasure ne'er could fix her seat,
Can, taught by thee, awhile be kind,
Unable to be great:
To each abhorred vice a slave,
He ill repays what Fortune gave,
Ah! visit not his wretched cell!
Unworthy of the bliss you bring,
Ne'er may that heart rejoice or sing,
Where meanest guilt can dwell.

How sweetly, on the Lover's soul,
Sinks thy elegiac strain,
His bosom seeks thy soft controul
To ease awhile its pain.
Nor less thy varied notes refine,
When the delighted circle join,
The maze of rural dance to share;
Then Beauty's finest tints are seen,
And Mirth, exalted, rules the scene,
Uncheck'd by probing Care.

Thus, in thy various dress, appear,
Shed thy influence o'er my heart;
With Harmony my labours cheer,
And all thyself impart:
O teach my trembling verse to swell,
Still what thou art to know and tell;
I ask no greater Joys than these;
High rais'd, upon thy wings to soar,
Thy worlds of pleasure to explore,
And power to sing thy praise.

FERDINANDO.

—

ANACREONTIC.

FOR THE PORT FOLIO.

LOVE AND WINE.

Say, what shall disturb this scene of joy?
What care have leave to enter here,
Where women and wine each hour employ,
That wantons through the happy year?
When the sparkling bowl has enliven'd each heart,
And taught it to think ev'ry care is a folly,
In the liquor divine, then, Love steeps his dart,
And turns all his frowns on the fiend Melancholy.

When touch'd by the vine's inspiring juice,
Beauty assumes a rosier hue;
To ev'ry warm passion gives a loose,
And pays to Nature, Nature's due:
When to love, then, so ardent, each pulse beats alarms,
And, keen for enjoyment, each sense is on fire,
With extacy agoniz'd, sink in her arms,
And seize ev'ry transport that love can inspire,

Here, while no intrusive cares molest,
How happy must that mortal prove,
Who thinks it true wisdom to be blest,
And joyous mixes wine and love!
Thus, lost in soft pleasures, my seasons shall roll,
Nor Time dare to put me in mind of his flight;
And while Bacchus shall ever replenish the bowl,
Kind Venus shall grant me the bed of delight.

A.

—

FOR THE PORT FOLIO.

Great is the Lord, his works of might
Demand our noblest songs,
Let his assembled saints unite
Their harmony of tongues.

Great is the mercy of the Lord,
He gives his children food,
And, ever mindful of his word,
He makes his promise good.

His Son, the great Redeemer, came
To seal his cov'nant sure,
Holy and rev'rend is his name,
His ways are just and pure.

They that would grow divinely wise,
Must with his fear begin,
The fairest proof of knowledge lies.
In hating ev'ry sin.

TRANSLATION.

Dominus magnus, manuum opus omne
Flagitat laudum celeberrimarum
Cantus; O! Sancti, voce sociali
Tollite laudes.

Mira Jehovæ charitas egenis
Largitur victum liberis benigne:
Semper et verbi memor et fidelis
Fœdera præstat.

Advenit clarus filius, Redemptor
Sanguine ut fœdus rite stabilerit;
Nomen augustum est pie venerandum.
Verbaque pura.

Qui velint vitam sapienter agi
Imbuant mentes domini timore,
Odium pravi sapientiæ sunt
Pignora certa.

—

FOR THE PORT FOLIO.

Arrested by Winter's imperious command,
The season of bloom and of beauty is lost—
Fields, mountains, and valleys are touch'd by that hand,
Which fetters the wide flowing rivers in frost.

The swift-stealing progress of Time, I descry,
Whilst the valleys and mountains are whiten'd with snow,
And mark, whilst the hail-storm, is whirl'd through the sky,
How the tall forest bends, and the winds fiercely blow.

Since Autumn has fled, from her gay golden bower,
And Nature no longer invites me to roam,
The Muse shall preside o'er retirement's lone hour,
And Friendship's soft lustres shall sparkle at home.

And when the loud storm, in a torrent descends,
And Comfort forsakes the chill cottager's door,
When I number my blessings, incircle my friends,
And Charity glows, as she fosters the poor.

Each boon that I share, may I freely impart,
Whilst Gratitude's tribute is cheerfully given,
To Him who informs, and enlarges the heart,
And opens the luminous passage to Heaven.

—

A RIDDLE.

BY GENERAL CONWAY,

From some fair virgin, I my being claim,
The earliest offspring of a guiltless flame.
Conscious, she flew, and strove my birth to hide;
In vain!—the shepherd boasted it with pride.
Though child of Love, with rage and fear I dwell,
But none e'er found me in the lonely cell.
And though, by nature, diffident and shy,
I shun the desert, and to crowds I fly.
Who know me, fear me, I'm by none desir'd,
And yet by all applauded and admir'd.

THE SOLUTION.

FOR THE PORT FOLIO.

BY ANOTHER HAND.

"Here, Clara, here! a riddle see!
Come—tell me what means this?"—
"What wilt thou give me then," said she—
"I'll give—a burning kiss."

Then, on the fair, I turn'd my eyes,
Nor needed more to seek—
I saw the true solution rise,
And glow upon her cheek.

—

FOR THE PORT FOLIO.

SONG, FROM THE ITALIAN.

Ah! sure, nor time, nor distance,
This passion can remove;
In vain is their assistance,
To calm my hopeless love:

For though, unmix'd with pleasure,
It pain alone impart,
Yet, like the miser's treasure,
'Twill twine around my heart.

—

FOR THE PORT FOLIO.

Le Glouton, de la Fontaine, conte tiré d'Athenée.

At supper once, a greedy elf
Ate half a sturgeon, by himself;
And after cramming to the chin,
His paunch distended, burst his skin.

He's sweated, vomited, and bled;
The doctor gravely shakes his head:
His thoughts, the patient quickly found,
And thus address'd his friends around:

"Since *I must die*, why cease your clatter?
Sniveling cannot mend the matter;
But pray indulge my latest wish,
And give me *t'other half the fish.*"

EPIGRAM.

Dick says he ne'er deceiv'd his friend; believe him
Who never had a friend, could scarce deceive him

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